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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,799	06/26/2001	Kirk Timmer	KEL-100XC1	7085

7590

01/14/2004

Jean E. Kyle
P.O. Box 2274
Hamilton, MT 59840-4274

EXAMINER

DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 01/14/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/893799	Applicant(s) Timmer
Examiner J. Donnelly	Group/Art Unit 3769

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133)

Status

- ☒ Responsive to communication(s) filed on 9/23/03
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-16 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 16 is/are allowed.
- ☒ Claim(s) 1-15 is/are rejected.
- ☒ Claim(s) 6 and 15 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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Claims 6 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 16 is allowed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by England discloses a device comprising a platform securing Trench means (15) for securing a users feet a fulcrum 12 capable of contacting and holding the platform above a surface said fulcrum contacting the platform anywhere along its bottom.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over England.

England discloses the device of claims 8-12 substantially as claimed absent the teaching of the device being manufactured of metal plastic or wood being transparent acrylic, and having indicia.

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The examiner notes that to manufacture components of exercise devices of plastic is known and that to manufacture components of exercise devices of plastic is known and that it would have been obvious to one of ordinary skill in the art to manufacture any or all of the components of England of plastics would and been obvious for reason such as cost reduction.

The examiner also notes that acrylic is plastic and that to manufacture components of clear acrylic is obvious and known usually for the purpose of aesthetics.

The examiner also notes that any label or marking on the component of England is considered as indicia (Ex a letter, a serial number etc).

In regard to claim 13, the examiner notes that the fulcrum of England has a degree of gripping power/adhesion.

In regard to claim 14 the examiner considers any writing or labeling on a device as indicia.

Claims 1-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Timmer.

Timmer discloses a device as claimed including the feature of the device including an adhesive as broadly claimed. The applicant has not claimed an specifics of the adhesion qualities of fulcrum.

In regard to claim 3, note the shape of figs 24 and 25 of Timmer.

Donnelly/DI

January 6, 2004